

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11085, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

RICHARD EMERY
PO BOX 115
SUMMER LAKE OR 97640

Findings of Fact

Background

1. On June 7, 2010, RICHARD EMERY filed an application to change the place of use under Certificate 83058. The Department assigned the application number T-11085.

2. The portion of the right to be transferred is as follows:

Certificate:	83058 in the name of RUSSELL EMERY (perfected under Permit G-5650)
Use:	IRRIGATION of 119.1 ACRES
Priority Date:	DECEMBER 12, 1972
Rate:	0.72 CUBIC FOOT PER SECOND
Limit/Duty:	The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year; water to be diverted from Well 1 when available with any deficiency in the available supply from Well 1 to be made up by appropriation from Well 2 provided that the total quantity diverted from both sources shall not exceed 0.72 CFS.
Sources:	TWO WELLS within the GOOSE AND SUMMER LAKE BASIN

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	17 E	WM	1	NE SE	WELL 2 - 2370 FEET NORTH AND 50 FEET WEST FROM THE SE CORNER OF SECTION 1
30 S	18 E	WM	7	NE SW	WELL 1 - 3480 FEET SOUTH AND 1570 FEET EAST FROM THE NW CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	17 E	WM	1	NE SW	30.4
30 S	17 E	WM	1	NW SW	15.9
30 S	17 E	WM	1	SW SW	34.8
30 S	17 E	WM	1	SE SW	37.7
30 S	17 E	WM	1	NW SE	0.3
Total					120.0

3. Transfer Application T-11085 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	18 E	WM	6	SE SW	16.84
30 S	18 E	WM	7	SW NE	27.44
30 S	18 E	WM	7	NE NW	1.07
30 S	18 E	WM	7	SE NW	13.60
30 S	18 E	WM	7	NE SW	23.22
30 S	18 E	WM	7	NW SE	36.93
Total					120.0

4. Notice of the application for transfer was published on June 15, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On September 24, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11085 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 24, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On November 12, 2010, the applicant submitted an amended page 6 of the application form and an amended map clarifying the place of use involved in the transfer.

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11085.
9. The proposed change would not result in enlargement of the right
10. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

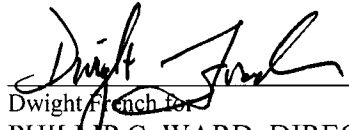
The change in place of use proposed in Transfer Application T-11085 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11085 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-11085 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 83058 and any related decree.*
3. *Water right certificate 83058 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

7. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 18 day of November 2010.


Dwight French for
PHILIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.